

ORDER NO. 1822

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Robert G. Taub, Vice Chairman;
Mark Acton;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Inbound International Expedited Services 2
(MC2009-10)

Docket No. CP2013-77

ORDER APPROVING RATE AND CLASSIFICATION CHANGES
FOR INBOUND INTERNATIONAL EXPEDITED SERVICES 2

(Issued August 30, 2013)

I. INTRODUCTION

The Postal Service proposes a change in rates not of general applicability for Inbound International Expedited Services 2.¹ It also proposes changes to the Mail Classification Schedule (MCS). Notice at 3. For the reasons discussed below, the Commission approves the Postal Service's proposal.

¹ Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability and Changes to Product Description for Inbound EMS 2, August 15, 2013 (Notice).

II. BACKGROUND

Product description. Inbound International Expedited Services 2 is a competitive product for Inbound Express Mail International (Inbound EMS) from foreign posts for delivery in the Postal Service's domestic delivery area. It was added to the competitive product list in 2008.² Prices reflect a formula set by the Governors of the Postal Service pursuant to EMS Cooperative procedures under the Universal Postal Union (UPU).³

Instant filing. Since the introduction of Inbound EMS, the Postal Service has filed several annual notices of rate changes. The most recent annual notice was filed August 15, 2013, for rate changes effective January 1, 2014. The timing of the filing facilitates Postal Service compliance with an EMS Cooperative requirement that rates for this product are to be communicated to the UPU by August 31 of the calendar year (CY) before they are to take effect. Notice at 2 n.6.

The Postal Service filed six attachments as follows:

- Attachment 1—an application for non-public treatment of materials filed under seal;
- Attachments 2A and 2B—redacted copies of Governors' Decision Nos. 08-20 and 11-6;
- Attachment 3—a redacted set of the new rates;
- Attachment 4—a certification addressing costs and prices;
- Attachments 5A through 5E—redacted copies of the EMS Cooperative CY 2012 Report Card and the EMS Cooperative quarterly report cards for CY 2012;
- Attachment 6—changes to the Inbound EMS product description in the Mail Classification Schedule.

² See Docket Nos. MC2009-10 and CP2009-12, Order Adding Inbound International Expedited Services 2 to Competitive Product List, December 31, 2008 (Order No. 162).

³ The EMS Cooperative is a voluntary group established in 1998 by the UPU's Postal Operations Council. The Postal Service is a member of the EMS Cooperative.

Commission action. In Order No. 1812, the Commission provided notice of the Postal Service's filing, appointed a Public Representative, and provided the public with an opportunity to comment.⁴ Chairman's Information Request No. 1 was issued with respect to the Notice.⁵ The Postal Service responded to CHIR No. 1 on August 27, 2013.⁶ The Public Representative filed comments on August 27, 2013.⁷ Parts of the Public Representative's comments were filed under seal.⁸ No other comments were received.

III. SUMMARY OF PUBLIC REPRESENTATIVE'S COMMENTS

The Public Representative reviewed the financial model, filed under seal, which estimates the expected contribution and cost coverage for the Inbound International Expedited Services 2 product during CY 2014 using the Postal Service's proposed rates. PR Comments at 1. Based upon her review of the model and recent financial results for Inbound EMS, the Public Representative finds that the Postal Service's CY 2014 financial model is potentially problematic and does not address compliance with 39 U.S.C. § 3633(a)(2). *Id.* First, she argues the financial model should not include cost data for Inbound EMS customers subject to separate Inbound EMS bilateral agreements. *Id.* at 2. Second, she argues that the price calculations submitted do not adhere to the price formula shown in Governors' Decision No. 08-20. *Id.*

⁴ Order No. 1812, Notice and Order on Changes in Rates Not of General Applicability, August 16, 2013.

⁵ Chairman's Information Request No. 1, August 23, 2013 (CHIR No. 1).

⁶ Response of the United States Postal Service to Chairman's Information Request No. 1, August 27, 2013 (Response to CHIR No. 1).

⁷ Public Representative Comments on Postal Service Notice of Changes in Rates Not of General Applicability, August 27, 2013 (PR Comments). The Public Representative also filed a Motion of the Public Representative for Late Acceptance of Comments, August 23, 2013. The motion is granted.

⁸ Notice of the Public Representative of Filing of Materials Under Seal, August 27, 2013.

IV. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the financial analysis provided under seal that accompanies it, the response to CHIR No. 1, and the Public Representative's comments.

Statutory and regulatory requirements. Planned price changes for competitive products are reviewed pursuant to three subsections of 39 U.S.C. § 3633(a) and Commission regulations under 39 C.F.R. § 3015, which implements section 3633.

The Public Representative argues that the financial model should not include cost data for Inbound EMS customers subject to separate Inbound EMS bilateral agreements. PR Comments at 2. The Public Representative raises a valid concern, and the Postal Service should consider modifying its model to only include cost data related to the countries included in the product. However, because country-specific cost data for the product are not currently available, the Commission finds that the average costs used in the financial model are a reasonable proxy for the costs associated with the product.

The Public Representative asserts that the submitted price calculations within the financial model do not adhere to the price formula shown in Governors' Decision No. 08-20. The Commission has reviewed the financial model and finds that under certain conditions the product may not meet the requirements of Governors' Decision No. 08-20. However, the cost coverage presented in the financial model, as filed, satisfies the statutory pricing criteria for competitive products in 39 U.S.C. § 3633(a). Moreover, the expected cost coverage for this product appears to fall within the requirements of Governors' Decision No. 11-6, which was also filed as supporting justification for approval of these prices.⁹

The Commission has reviewed the financial model and finds that the Notice demonstrates that the proposed prices are expected to comply with the statutory criteria intended to ensure that competitive products are not cross-subsidized by market

⁹ See Notice, Attachment 2B.

dominant products, that they cover costs, and make a contribution to overhead. See 39 U.S.C. § 3633(a)(1) through (a)(3). Thus, the proposed rates comport with the provisions applicable to rates for competitive products.

Product list and MCS language. The Postal Service submitted proposed MCS language changing the description of the product. The changes include:

- A change in the name of the product from “Inbound International Expedited Services 2” to “Inbound EMS 2”;
- A description of discounts to be offered for certain postal operators within the Tier 1 pricing that is offered to Pay-for-performance Plan agreement holders;
- Changes in eligibility for Tier 1; and
- Updates to the list of operators within Tiers 1 and 2.

Notice at 3.

The Postal Service proposes changing the description of Inbound EMS by changing section 2515.6.1.d to read “Unless otherwise provided by agreement” instead of “Unless covered by a negotiated service agreement...” *Id.* Attachment 6. The Postal Service explains that this change takes into account the fact that customer service guarantees from certain origins are in effect as a result of an agreement among a small group of postal operators known as Kahala Posts Group (KPG). CHIR No. 1. It states that the KPG arrangement does not include any rates apart from the overall Inbound EMS rates that the Postal Service publishes through the UPU’s EMS Unit. *Id.* It asserts that other than the KPG arrangement, there are no other service guarantees currently offered for Inbound EMS. *Id.* Accordingly, because this proposed MCS change applies to only one particular type of agreement, the KPG arrangement, the Commission clarifies the proposed draft MCS language to read as follows: “Unless otherwise provided by KPG arrangement...”

The Postal Service also proposes establishing an additional price discount category within Tier 1 offered to select Pay-for-performance participants. Notice at 5.

Tier 1 would be divided into Tier 1a and Tier 1b. Tier 1a is available to EMS Cooperative members that elect to comply with Pay-for-performance provisions. *Id.* Attachment 6. Tier 1b is available to EMS Cooperative members that elect to comply with Pay-for-performance provisions and that make arrangements with the Postal Service to reciprocally discount inbound delivery prices.¹⁰ Tier 2 consists of all other postal operators that transmit EMS to the United States. *Id.*

The Postal Service notes that there are no agreements currently listed in Tier 1b because the discounted rates in Tier 1 will not be offered to select EMS Cooperative members until January 2014. Notice at 3. The Postal Service states that it will list the countries in Tier 1b in its quarterly updates to the list of countries in Tier 1 and Tier 2 in section 2515.6.7 of the MCS. *Id.* at 6. It proposes to file such quarterly updates in this docket instead of in Docket Nos. MC2009-10 and CP2009-12, where the Postal Service has previously filed such updates. *Id.* The Commission directs the Postal Service to file quarterly updates to the list of countries in Tier 1a, Tier 1b, and Tier 2 in this docket. The service tier format established by this Order supersedes the tier format set forth in Order No. 162.

The Commission will make the conforming changes discussed above to the draft MCS language regarding the Inbound International Expedited Services 2 product as proposed by the Postal Service. The Commission's revisions to the draft MCS to reflect approval of the proposal are shown below the signature line of this Order.

¹⁰ *Id.* As relates to Tier 1b, the Postal Service proposes new MCS language as follows: "By mutual agreement, reciprocal discounts may be applied to the prices." *Id.* Should the Postal Service enter into any bilateral agreements pursuant to this provision, it would be required to file such agreements with the Commission pursuant to 39 C.F.R. part 3015.

It is ordered:

1. The proposed rates for Inbound International Expedited Services 2 scheduled to take effect January 1, 2014 are in accordance with the relevant statutory and regulatory requirements of 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.
2. The competitive product list is amended to replace “Inbound International Expedited Services 2” with “Inbound EMS 2.” The revision to the competitive product list appears below the signature of this Order and is effective immediately.
3. The draft Mail Classification Schedule will be modified as discussed in the body of this Order and as shown below the signature line of this Order.
4. The Postal Service is directed to file quarterly updates to the list of countries in Tier 1a, Tier 1b, and Tier 2 in this docket.
5. If the Postal Service enters into any bilateral Tier 1b agreements, it shall file such agreements with the Commission pursuant to 39 C.F.R. part 3015.
6. The service tier format established by this Order supersedes the tier format set forth in Order No. 162.
7. The Secretary shall arrange for publication in the *Federal Register* of an updated product list reflecting the changes made in this Order.

By the Commission.

Shoshana M. Grove
Secretary

CHANGE IN MAIL CLASSIFICATION SCHEDULE
CHANGE IN PRODUCT LIST

The following material represents changes to the product list codified in Appendix A to 39 C.F.R. part 3020, subpart A—Mail Classification Schedule. These changes reflect the Commission's order in Docket No. CP2013-77. The Commission uses two main conventions when making changes to the product list. New text is underlined. Deleted text is struck through.

Part B—Competitive Products

2000 Competitive Product List

Express Mail

* * * * *

~~Inbound International Expedited Services~~ Inbound EMS

~~Inbound International Expedited Services 1~~ Inbound EMS 1 (CP2008-7)

~~Inbound International Expedited Services 2~~ Inbound EMS 2 (MC2009-10 and CP2009-12)

~~Inbound International Expedited Services 3~~ Inbound EMS 3 (MC2010-13 and CP2010-12)

~~Inbound International Expedited Services 4~~ Inbound EMS 4 (MC2010-37 and CP2010-126)

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Competitive Product Descriptions

* * * * *

~~Inbound International Expedited Services~~ Inbound EMS

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2515.6 Inbound EMS**2515.6.1 Description**

- a. Inbound EMS are Inbound Express Mail services offered pursuant to negotiated service agreements. Inbound EMS service is reliable, high-speed and available from most countries.
- b. Inbound EMS items may contain matter with personal information, partially or wholly handwritten or typewritten matter, or bills or statements of account.
- c. Inbound EMS pieces are sealed against inspection.
- d. ~~Unless covered by a negotiated service agreement~~ otherwise provided by KPG arrangement, there is no service guarantee or postage refund for delay.
- e. Unless covered by a negotiated agreement, indemnity is paid by the country of origin to the sender and it is not reciprocal.
- f. Individual negotiated agreements must comply with the requirements specified in 39 U.S.C. § 3633.
- g. Individual negotiated agreements must be on file with the Commission no less than 15 days prior to their effective date.

2515.6.2 Size and Weight Limitations

	Length	Height	Thickness	Weight
Minimum	none	none	none	See Note 1
Maximum	36 inches			
	79 inches in combined length and girth			

Notes

1. Country-specific restrictions may apply as specified by the originating country.

2515.6.3 Minimum Volume Requirements

	Minimum Volume Requirements
Inbound EMS	none

2515.6.4 Price Categories

The following price categories are available for the product specified in this section:

- Bilateral/Multilateral Agreements

2515.6.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- International Ancillary Services (2615)
 - International Return Receipt (2615.3)
 - Customs Clearance and Delivery Fee (2615.6)

2515.6.6 Prices

~~Imbalance eCharges are set by bilateral and multilateral agreements based on~~
announcements to the Universal Postal Union International Bureau. Unless

~~covered by a negotiated agreement, indemnity is paid by the country of origin to the sender and it is not reciprocal.~~

2515.6.7 Products Included in Group ~~(Agreements)~~

Each product is followed by a lists grouping countries into tiers of service for of ~~agreements included within~~ that product.

- Inbound EMS 2
Under EMS Cooperative procedures, destination posts set prices within two pricing tiers. By mutual agreement, reciprocal discounts may be applied to the prices.

Baseline Reference

Docket Nos. MC2009-10 and CP2009-12

PRC Order No. 162, December 31, 2008

Tier 1a: Pay-For-Performance. Available to ~~members of the Kahala Post Group and EMS Cooperative members who~~ that elect to comply with pay-for performance provisions.

~~Included Agreements~~

Anguilla	Jordan
Aruba	Kazakhstan
Azerbaijan	Korea
Bahamas	Latvia
Barbados	Lithuania
Belarus	Madagascar
Belgium	Malaysia
Belize	Maldives
Bermuda	Malta

Botswana	Mauritius
Brazil	Mexico
Burundi	Mongolia
Cayman Islands	Netherlands Antilles
Chile	New Zealand
Costa Rica	Norway
Croatia	Poland
Cyprus	Russia
Czech Republic	Rwanda
Denmark	Saudi Arabia
El Salvador	Singapore
Finland	Spain
France	St. Kitts and Nevis
Ghana	St. Lucia
Great Britain	Sweden
Greece	Syria
Hong Kong	Taiwan
Hungary	Trinidad and Tobago
India	Uganda
Israel	United Arab Emirates
Italy	Uruguay
Jamaica	Viet Nam
Japan	

Tier 1b: Enhanced Pay-For-Performance. Available to EMS Cooperative members that elect to comply with pay-for-performance provisions and that make arrangements with the Postal Service to reciprocally discount inbound delivery prices.

Postal Operators TBD

Tier 2: All ~~Others~~ postal operators that transmit EMS to the United States. ~~International posts who choose not to be members of the EMS Cooperative.~~

~~Included Agreements~~

Afghanistan	Macao
Albania	Macedonia
Algeria	Malawi
Angola	Mali
Antigua and Barbuda	Mauritania
Argentina	Moldova
Armenia	Monaco
Bangladesh	Montserrat
Benin	Morocco
Bhutan	Mozambique
Bolivia	Myanmar
Bosnia and Herzegovina	Namibia
Brunei Darussalam	Nauru
Bulgaria	Nepal
Burkina Faso	New Caledonia
Cambodia	Nicaragua
Cameroon	Niger
Cape Verde	Nigeria
Central Africa	Oman
Chad	Pakistan
Colombia	Panama
Comoros	Papua New Guinea
Congo (Dem. Rep.)	Paraguay
Congo (Rep.)	Peru
Cote d'Ivoire	Philippines

Cuba	Portugal
Djibouti	Qatar
Dominica	Romania
Dominican Republic	Saint Vincent and Grenadin
Ecuador	Samoa
Egypt	San Marino
Eritrea	Sao Tome and Principe
Estonia	Senegal
Ethiopia	Serbia
Falkland Islands	Seychelles
Fiji	Sierra Leone
<u>France</u>	Slovakia
French Polynesia	Slovenia
Gabon	Solomon Islands
Gambia	Somalia
Georgia	South Africa
Germany	<u>Spain</u>
Gibraltar	Sri Lanka
Grenada	Sudan
Guatemala	Suriname
Guinea	Swaziland
Guinea-Bissau	Tajikistan
Guyana	Tanzania
Honduras	Thailand
Iceland	Togo
Indonesia	Tonga
Iran	Tunisia
Iraq	Turkey
Ireland	Turkmenistan
Kenya	Turks and Caicos Islands
Kiribati	Ukraine

Kosovo UNMIK*	Uzbekistan
Kuwait	Vanuatu
Kyrgyzstan	Venezuela
Lao People's Dem Rep.	Yemen
Lebanon	Zambia
Lesotho	Zimbabwe
Liberia	
Libya	
Liechtenstein	
Luxembourg	